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Charles F Schill
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue N W
Washington, DC 20036

EXAMINER

ROSSI, JESSICA

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/674,417

Applicant(s)

DANKO, PETER

Examiner

Jessica L. Rossi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
4a) Of the above claim(s) 3-5, 10 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6-9 and 11-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/1/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-14, drawn to a method of closing an open end of a product, classified in class 156, subclass 202.
 - II. Claim 15, drawn to a panel, classified in class 428, subclass 121.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the panel could be made by another process where the first layer is not roller toward the second layer (i.e. the second layer is rolled toward the first layer to contact the first and second layers).
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
4. This application contains claims directed to the following patentably distinct species of the claimed invention: upon election of Group I, a further species election is required.

Species A (appears to be claims 2, 6, 9, 11), drawn to overlapping the first and second layers.

Species B (appears to be claims 3-5 and 10), drawn to contacting an edge of the first layer to an edge of the second layer.

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Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

5. During a telephone conversation with Mr. Schill on 11/2/05 a provisional election was made with traverse to prosecute the invention of Group I and Species A, claims 1-2, 6-9 and 11-14. Affirmation of this election must be made by applicant in replying to this Office action. Claims 3-5, 10 and 15 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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6. It is noted that rejoined of Species will be considered upon the discovery of allowable subject matter, depending on the basis thereof.

Specification

7. It is noted that parent application 09/774,874 has since issued as US PAT 6,655,434 and therefore Applicant should amend the first paragraph of the specification accordingly.

Claim Objections

8. Claim 1 is objected to because of the following informalities:

Claim 1, line 5: "contracting" should be --contacting--.

Claim 1, line 8: "contact" should be --contacts--.

Claim 1, line 8: --second-- should be inserted after "portion of the".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 1-2, 6-9 and 11-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 1, it is unclear what Applicant means by "rolling" at least the first layer toward the second layer. Although the specification also uses the term "rolling" to describe the movement of the first layer toward the second layer, the examiner finds such language to be confusing and misleading since one reading the specification as a whole would appreciate that a roller is never used in any of the various embodiments to move the first layer toward the second

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layer and/or the second layer toward the first layer. Applicant is asked to clarify. It is suggested to change “rolling” to --moving-- in claims 1, 2 and 6.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-2 and 7-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Kamal (US 4347955, listed in IDS).

*The following rejection is set forth to show Applicant that present claim 1 does not establish that the product is an entity separate from the first and second layers and therefore does not exclude the first and second layers forming/being the product.

With respect to claim 1, Kamal teaches a method of closing an open end of a product having a first layer 25 with a first end and a second layer 26 with a second end with the first layer being spaced apart from the second layer, the first and second ends defining an open end of the product, and the first and second layers being heat weldable or fusible. The reference teaches rolling at least the first layer toward the second layer and contacting the first layer with the second layer and fusing the first and second layers by heating at least one portion of the first layer that contacts the second layer and a portion of the second layer that contacts the first layer (Figures 1-9; column 3, line 34 – column 4, line 40).

Regarding claim 2, the reference teaches the rolling step including overlapping the first layer over the second layer (Figures 3-5).

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Regarding claim 7, the reference teaches the fusing step including heating both portions of the first and second layers that contact each other (Figure 5; column 4, lines 38-40).

Regarding claim 8, the reference teaches both portions being simultaneously heated (Figure 5).

13. Claims 1-2, 6-8 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Olsen (US 4201609).

With respect to claim 1, Olsen teaches a method of closing an open end of a product having a first layer 3 with a first end and a second layer 4 with a second end with the first layer being spaced apart from the second layer, the first and second ends defining an open end of the product, and the first and second layers being heat weldable or fusible (column 1, lines 8-11). The reference teaches rolling at least the first layer toward the second layer and contacting the first layer with the second layer and fusing the first and second layers by heating at least one portion of the first layer that contacts the second layer and a portion of the second layer that contacts the first layer (Figures 1a-1c; column 3, lines 27-50).

Regarding claim 2, the reference teaches the rolling step including overlapping the first layer over the second layer.

Regarding claim 6, the reference teaches the rolling step including rolling both the first and second layers so that the first layer overlaps and contacts the second layer (Figures 1a-1c; column 3, lines 45-50).

Regarding claim 7, the reference teaches the fusing step including heating both portions of the first and second layers that contact each other.

Regarding claim 8, the reference teaches both portions being simultaneously heated.

Regarding claim 11, the reference teaches trimming the first and second layers so that they extend substantially equally (Figure 1a; column 2, lines 59-62).

14. Claims 1-2 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by LoMaglio (US 4356053).

With respect to claim 1, LoMaglio teaches a method of closing an open end of a product having a first layer 12 with a first end and a second layer 14 with a second end with the first layer being spaced apart from the second layer, the first and second ends defining an open end of the product, and the first and second layers being heat weldable or fusible. The reference teaches rolling at least the first layer toward the second layer and contacting the first layer with the second layer and fusing the first and second layers by heating at least one portion of the first layer that contacts the second layer and a portion of the second layer that contacts the first layer (Figures 1-2; column 2, lines 25-62).

Regarding claim 2, the reference teaches the rolling step including overlapping the first layer over the second layer.

Regarding claim 6, the reference teaches the rolling step including rolling both the first and second layers so that the first layer overlaps and contacts the second layer.

Regarding claim 7, the reference teaches the fusing step including heating both portions of the first and second layers that contact each other.

Regarding claim 8, the reference teaches both portions being simultaneously heated.

15. Claims 1-2, 6-8 and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Nagata et al. (US 4507348).

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With respect to claim 1, Nagata teaches a method of closing an open end of a product having a first layer 1 with a first end and a second layer 1' with a second end with the first layer being spaced apart from the second layer, the first and second ends defining an open end of the product, and the first and second layers being heat weldable or fusible. The reference teaches rolling at least the first layer toward the second layer and contacting the first layer with the second layer and fusing the first and second layers by heating at least one portion of the first layer that contacts the second layer and a portion of the second layer that contacts the first layer (Figures 2 and 10; column 2, lines 54-60; column 4, lines 12-36).

Regarding claim 2, the reference teaches the rolling step including overlapping the first layer over the second layer.

Regarding claim 6, the reference teaches the rolling step including rolling both the first and second layers so that the first layer overlaps and contacts the second layer (column 4, lines 35-36).

Regarding claim 7, the reference teaches the fusing step including heating both portions of the first and second layers that contact each other.

Regarding claim 8, the reference teaches both portions being simultaneously heated.

Regarding claim 13, the reference teaches the product comprising a fluted thermoplastic panel 2 (column 3, lines 30-32).

Regarding claim 14, the reference teaches the thermoplastic being polyethylene, polypropylene, etc. (column 3, lines 30-40).

16. Claims 1-2, 6-8 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Maughan (US 3929536).

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With respect to claim 1, Maughan teaches a method of closing an open end of a product having a first layer 15 with a first end and a second layer 30 with a second end with the first layer being spaced apart from the second layer, the first and second ends defining an open end of the product, and the first and second layers being heat weldable or fusible. The reference teaches rolling at least the first layer toward the second layer and contacting the first layer with the second layer and fusing the first and second layers by heating at least one portion of the first layer that contacts the second layer and a portion of the second layer that contacts the first layer (Figures 3-4; column 2, lines 28-29; column 4, lines 30-35; column 5, lines 10-20).

Regarding claim 2, the reference teaches the rolling step including overlapping the first layer over the second layer (Figures 3-5).

Regarding claim 6, the reference teaches the rolling step including rolling both the first and second layers so that the first layer overlaps and contacts the second layer (Figure 4).

Regarding claim 7, the reference teaches the fusing step including heating both portions of the first and second layers that contact each other (column 4, lines 30-35; column 6, lines 60-63).

Regarding claim 8, the reference teaches both portions being simultaneously heated.

Regarding claim 11, the reference teaches trimming the first and second layers so that they extend substantially equally (Figure 4; column 4, lines 41-50).

17. Claims 1-2, 7-8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Ruemeli et al. (US 5069738).

With respect to claim 1, Ruemeli teaches a method of closing an open end of a product having a first layer 7 with a first end and a second layer 8 with a second end with the first layer

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being spaced apart from the second layer, the first and second ends defining an open end of the product, and the first and second layers being heat weldable or fusible. The reference teaches rolling at least the first layer toward the second layer and contacting the first layer with the second layer and fusing the first and second layers by heating at least one portion of the first layer that contacts the second layer and a portion of the second layer that contacts the first layer (Figures 3, 4a-d and 7.1-7.5; column 2, lines 32-40; column 4, line 35 – column 5, line 45).

Regarding claim 2, the reference teaches the rolling step including overlapping the first layer over the second layer (Figures 3, 4c and 7.4).

Regarding claim 7, the reference teaches the fusing step including heating both portions of the first and second layers that contact each other (Figure 7.4; column 5, lines 5-15).

Regarding claim 8, the reference teaches both portions being simultaneously heated.

Regarding claim 9, the reference teaches trimming at least the second layer so that the first layer extends beyond the second layer to form a tab that is dimensioned to overlap the second layer (Figures 3 and 7.1 and 7.3; column 2, lines 39-40).

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kamal as applied to claim 2 above.

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Regarding claim 9, Kamal teaches the first layer extending beyond the second layer to form a tab that overlaps the second layer but is silent as to trimming the second layer to form the tab; such would have been an obvious way to form the tab since it is well known and conventional to trim layers in a variety of arts and since this avoids having to provide pre-dimensioned first and second layers.

20. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kamal as applied to claim 1 above and further in view of Rias (US 5246516, listed in IDS).

Regarding claim 12, Kamal is silent as to pressing and cooling the fused layers. It would have been obvious to do this to the layers because it is known in the art to press and cool two layers that have been overlapped and sealed, as taught by Rias (Figure 1; column 2, lines 60-65), where cooling accelerates process time and pressing prevents delamination during cooling.

21. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen as applied to claim 1 above.

Regarding claim 12, Olsen is silent as to pressing and cooling the fused layers. It would have been obvious to do this to the layers because it is well known and conventional to press and cool two layers that have been fused so as to accelerate the process time and prevent delamination during cooling.

22. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over LoMaglio as applied to claim 6 above and further in view of Olsen.

Regarding claim 11, LoMaglio teaches the first and second layers extending substantially equally but is silent as to trimming the first and second layers. It would have been obvious to do

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this to the first and second layers because such is known in the art, as taught by Olsen (Figure 1a; column 2, lines 59-62), where this eliminates having to provide pre-dimensioned layers.

23. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over LoMaglio as applied to claim 1 above.

Regarding claim 12, LoMaglio is silent as to pressing and cooling the fused layers. It would have been obvious to do this to the layers because it is well known and conventional to press and cool two layers that have been fused so as to accelerate the process time and prevent delamination during cooling.

24. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nagata as applied to claim 2 above and further in view of the collective teachings of Washburn et al. (US 3579396, provided in IDS), Jessee et al. (US 3616077) and Bousquet et al. (US 3031356, provided in IDS).

Regarding claim 9, Nagata is silent as to trimming at least the second layer so that the first layer extends beyond the second layer to form a tab with the tab being dimensioned to overlap the second layer. It is known in the packaging/container art to bond facing sheets to both sides of a fluted panel where one of the facing sheets extends beyond the other to form a tab can be folded to overlap the other facing sheet to allow for bonding of the same, wherein such closing of the open ends of the product prevents contaminants from entering the open ends, as taught by the collective teachings of Washburn (Figure 8; column 1, lines 39 – column 2, line 2), Jessee (Figure 4; column 1, lines 5-20) and Bousquet (Figures 7-8; column 1, lines 11-20).

Therefore, it would have been obvious to have the first layer of Nagata extend beyond the second layer on both the left and right hand sides of the laminate shown in Figure 2 to form a tab that is dimensioned to overlap the second layer because such is known in the art, as taught by the

collective teachings of Washburn, Jesse and Bousquet, where such a configuration allows for the tab to be folded and overlapped onto the other layer for bonding of the same thereby preventing contaminants from entering the open end of the product. As for trimming the second layer to form the tab, such would have been an obvious way to form the tab since it is well known and conventional to trim layers in a variety of arts and since this avoids having to provide pre-dimensioned first and second layers.

25. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nagata as applied to claim 6 above and further in view of Olsen.

Regarding claim 11, Nagata teaches the first and second layers extending substantially equally (Figure 2) but is silent as to trimming the first and second layers. It would have been obvious to do this to the first and second layers because such is known in the art, as taught by Olsen (Figure 1a; column 2, lines 59-62), where this eliminates having to provide pre-dimensioned layers.

26. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nagata as applied to claim 1 above and further in view of Rias.

Regarding claim 12, Nagata is silent as to pressing and cooling the fused layers. It would have been obvious to do this to the layers because it is known in the art to press and cool two layers that have been overlapped and sealed, as taught by Rias (Figure 1; column 2, lines 60-65), where cooling accelerates process time and pressing prevents delamination during cooling.

27. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maughan as applied to claim 1 above.

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Regarding claim 12, Maughan is silent as to pressing and cooling the fused layers. It would have been obvious to do this to the layers because it is well known and conventional to press and cool two layers that have been fused so as to accelerate the process time and prevent delamination during cooling.

28. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruemeli as applied to claim 1 above and further in view of Rias.

Regarding claim 12, Ruemeli is silent as to pressing and cooling the fused layers. It would have been obvious to do this to the layers because it is known in the art to press and cool two layers that have been overlapped and sealed, as taught by Rias (Figure 1; column 2, lines 60-65), where cooling accelerates process time and pressing prevents delamination during cooling.

29. Claims 1-2, 7-9 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitajima et al. (US 3630806) in view of the collective teachings of Washburn, Jessee and Bousquet and further in view of the collective teachings of Glans et al. (US 4606784), Tarko (US H556) and Ruemeli.

With respect to claim 1, Kitajima teaches a packaging/container material having a first thermoplastic layer 101 with a first end and a second thermoplastic layer 103 with a second end with the first layer being spaced apart from the second layer by means of a fluted thermoplastic panel 100' (Figure 2). The first and second ends define an open end of the product, with the first and second layers being heat weldable or fusible (Figure 2; column 1, lines 5-31; column 2, lines 41-42; column 4, lines 42-47 and 60-62; column 5, lines 15-18).

The reference is silent as to rolling at least the first layer toward the second layer and contacting the first layer with the second layer and fusing the first and second layers by heating

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at least one portion of the first layer that contacts the second layer and a portion of the second layer that contacts the first layer.

It is known in the packaging/container art to bond facing sheets to both sides of a fluted panel where one of the facing sheets is rolled toward the other facing sheet to contact the other facing sheet and then the facing sheets are bonded to each other to close the open ends of the product to prevent contaminants from entering the open ends, as taught by the collective teachings of Washburn (Figure 8; column 1, lines 39 – column 2, line 2), Jessee (Figure 4; column 1, lines 5-20) and Bousquet (Figures 7-8; column 1, lines 11-20); it is appreciated that all of these references use adhesive to bond the facing sheets to each other.

However, it is also known in a variety of arts, including the packaging/container art, to close the open end of a product having thermoplastic facing sheets disposed on both sides of a panel (both flat and fluted panels), by rolling at least one of the facing sheets toward the other to contact the facing sheets and then bonding the facing sheets by welding/fusing them as an alternative to using adhesive, as taught by the collective teachings of Glans (abstract; column 1, lines 8-26; column 6, lines 34-61; column 8, lines 28-29 and 41-57 and 62-63), Tarko (Figures; abstract; column 4, lines 46-56; column 5, lines 12) and Ruemeli (column 2, lines 39-40).

Therefore, it would have been obvious to roll at least the first layer of Kitajima toward the second layer and contact the first layer with the second layer and fuse the first and second layers by heating at least one portion of the first layer that contacts the second layer and a portion of the second layer that contacts the first layer because closing the open ends of such a product is known in the art, as taught by the collective teachings of Washburn, Jessee and Bousquet, where this prevents contaminants from entering the open ends of the product, and because fusing the

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layers to close the open ends eliminates having to use a separate bonding material, i.e. adhesive, as taught by the collective teachings of Glans, Tarko and Ruemeli.

Regarding claim 2, Kitajima in view of the collective teachings teach such.

Regarding claims 7-8, Kitajima in view of the collective teachings teach such.

Regarding claim 9, Kitajima is silent as to trimming at least the second layer so that the first layer extends beyond the second layer to form a tab with the tab being dimensioned to overlap the second layer. It is known in the packaging/container art to bond facing sheets to both sides of a fluted panel where one of the facing sheets extends beyond the other to form a tab can be folded to overlap the other facing sheet to allow for bonding of the same, wherein such closing of the open ends of the product prevents contaminants from entering the open ends, as taught by the collective teachings of Washburn (Figure 8; column 1, lines 39 – column 2, line 2), Jessee (Figure 4; column 1, lines 5-20) and Bousquet (Figures 7-8; column 1, lines 11-20).

Therefore, it would have been obvious to have the first layer of Kitajima extend beyond the second layer to form a tab that is dimensioned to overlap the second layer because such is known in the art, as taught by the collective teachings of Washburn, Jessee and Bousquet, where such a configuration allows for the tab to be folded and overlapped onto the other layer for bonding of the same thereby preventing contaminants from entering the open end of the product. As for trimming the second layer to form the tab, such would have been an obvious way to form the tab since it is well known and conventional to trim layers in a variety of arts and since this avoids having to provide pre-dimensioned first and second layers.

Regarding claims 13-14, Kitajima teaches such (column 5, lines 15-18).

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30. Claims 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitajima in view of the collective teachings of Washburn, Jessee and Bousquet and further in view of the collective teachings of Glans, Tarko and Ruemeli as applied to claim 1 above, and further in view of the Wagers et al. (US 3785908, provided in IDS) and Hall et al. (US 5545279).

Regarding claim 6, Kitajima in view of the collective teachings is silent as to rolling both the first and second layers.

It is known in the packaging/container art to bond facing sheets to both sides of a fluted panel where both facing sheets are rolled toward each other so that the layers overlap and contact each other along the edges of the panel and can be bonded in this overlapping region, where rolling both sheets to form the overlapped region produces a more desirable product than rolling one sheet that extends beyond the other sheet since the thickness of the product at the edge is not increased, as taught by Wagers (Figures 1-6; column 1, lines 8-60; column 3, lines 12-65); it is appreciated that Wagers use adhesive to bond the facing sheets to each other.

However, it is also known in art of closing an open end of a product having thermoplastic facing sheets disposed on both sides of a panel to close the open ends by overlapping the edges of the sheets along the edges of the panel and then bond the sheets by welding/fusing them in the overlap region as an alternative to using adhesive, as taught by Hall (Figure 13; column 2, line 65 – column 3, line 2; column 4, line 66 – column 5, line 28).

Therefore, it would have been obvious to roll both the first and second layers of Kitajima so that the first layer overlaps and contacts the second layer because closing the open ends of a product in such a manner is known in the art, as taught by the Wagers, where this prevents contaminants from entering the open ends of the product without increasing the thickness of the

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product at its edges, and because fusing the layers of product whose open ends have been closed such that the layers overlap along the edges of the product eliminates having to use a separate bonding material, i.e. adhesive, as taught Hall.

Regarding claim 11, Kitajima teaches the first and second layers extending substantially equally (Figure 2) but is silent as to trimming the first and second layers. It would have been obvious to do this to the first and second layers because this eliminates having to provide pre-dimensioned layers.

31. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kitajima in view of the collective teachings of Washburn, Jessee and Bousquet and further in view of the collective teachings of Glans, Tarko and Ruemeli as applied to claim 1 above, and further in view of Rias.

Regarding claim 12, Kitajima is silent as to pressing and cooling the fused layers. It would have been obvious to do this to the layers because it is known in the art to press and cool two layers that have been overlapped and sealed, as taught by Rias (Figure 1; column 2, lines 60-65), where cooling accelerates process time and pressing prevents delamination during cooling.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jessica L. Rossi** whose telephone number is **571-272-1223**. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard D. Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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JESSICA ROSSI
PRIMARY EXAMINER

